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September 2, 2005

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
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From: David E. Janssen
Chief Administrative Officer

WASHINGTON, D.C. UPDATE

Medicaid Commission Report

As we have previously reported, the Federal Fiscal Year (FFY) 2006 Budget Resolution includes budget reconciliation instructions for the Finance Committee, which has jurisdiction over Medicaid in the Senate, to cut mandatory spending by $10 billion over five years and for the Energy and Commerce Committee, which has jurisdiction in the House, to cut mandatory spending by $14.734 billion. The budget resolution assumes that the committees will cut Medicaid by $10 billion over five years.

On September 1, 2005, the Bush Administration's Medicaid Commission released its report recommending short-term Medicaid reforms that would reduce Medicaid spending by an estimated $11 billion over the next five years. It was released in time for Congress to use the recommendations when it drafts budget reconciliation legislation this month.

The Commission's recommendations include:

- Allowing states to use average manufacturer prices rather than average wholesale prices in setting Medicaid prescription drug reimbursement rates ($4.3 billion);
- Extending the Medicaid Drug Rebate Program to managed care plans ($2.0 billion);
- Allowing states to increase co-payments charged on non-preferred prescription drugs when a preferred drug is available in order to encourage the use of less costly drugs ($2.0 billion);
- Restricting the transfer of assets to other persons, such as close relatives, in order to qualify for Medicaid-funded long-term care services ($1.5 billion); and
- Applying existing restrictions on the use of health care provider taxes to finance the non-Federal share of Medicaid costs to managed care organizations ($1.2 billion).

Except for the recommendation on provider taxes, which would shift costs to states, all of the Commission's recommendations would result in state as well as Federal Medicaid cost savings, and generally are consistent with Medicaid reform proposals made by the National Governors Association. Of major importance to the County, the Commission did not accept Bush Administration Medicaid budget proposals that would shift costs to state and local governments, such as by curbing the use of intergovernmental transfers, capping Medicaid payments to public providers to no more than the cost of providing services, capping reimbursement of administrative costs, and restricting the use of Medicaid for targeted case management and rehabilitation services. Congress, however, could opt to use the Administration's proposals to reduce Medicaid spending instead of the Commission's recommendations.

Pursuit of County Positions on Legislation

Ryan White Comprehensive AIDS Resources Emergency (CARE) Act: The current authorization for CARE Act programs expires at the end of FFY 2005. Of particular importance to the County are Title I CARE Act emergency relief grants that are awarded directly to heavily impacted eligible metropolitan areas (EMAs) and Title II state formula grants that mostly are earmarked for the AIDS Drug Assistance Program (ADAP). FFY 2005 CARE Act funding totaled $2.05 billion, including $610 million for Title I and $1.131 billion for Title II of which $794 million was earmarked for ADAP. In FFY 2005, the County received a total of $36.8 million in Title I funding.

While CARE Act reauthorization legislation has not yet been introduced, committee mark-up on the legislation is expected to begin this month in the Senate. We anticipate that the reauthorization issues affecting the County mainly will fall into two categories:

(1) those affecting the amount of funds that the County will receive; and (2) those affecting the County's discretion over the use of funds. Given that significant increases in overall funding are unlikely over the next several years, provisions affecting the allocation of available funds will be especially important.

The Federal Agenda adopted by the Board on February 8, 2005 included policies to support CARE Act reauthorization legislation which would:

- Increase available funding for the County by providing adequate appropriations and an equitable distribution of resources;

- Preserve existing CARE Act programs, including Title I grants; and

- Allow funds to be used to provide a more comprehensive, integrated continuum of care and services that is locally determined and responsive to the needs of all individuals in need of CARE Act funded services.

Based on these CARE Act policies and other policies in the Federal Agenda to support proposals which would provide a greater share of total available Federal funding to the County or California, and which would provide local governments with greater decision-making authority over the use of Federal funds, the County's Washington advocates will pursue the following positions on CARE Act reauthorization:

- Support increasing authorized funding levels for existing CARE Act programs.

- Support the allocation of funds based on need, such as estimated living AIDS cases, actual living AIDS cases, actual living HIV cases, poverty, and lack of health insurance, using accurate and reliable data which are available in all states and consistent among all jurisdictions. Jurisdictions that currently lack a HIV name-based reporting system, such as California, should be provided sufficient time to fully implement such a system before names-based data are solely used to allocate funds.

- Oppose proposals that would reduce CARE Act funding for the County.

- Support the targeting of limited CARE Act resources to EMAs, which have a high number of persons living with HIV/AIDS, and oppose proposals which would exclude the counting of persons with HIV/AIDS cases in Title I jurisdictions in determining the allocation of Title II funds.

- Support retaining provisions in current law that provide for local flexibility over the use of Title I funds, and maintaining the current balance of the roles and responsibilities between the Federal, state, and local governments; and oppose proposals that would reduce local flexibility, such as the imposition of a mandatory minimum percentage of funds that must be spent on narrowly defined medical services.

We will continue to keep you advised.

DEJ:GK
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c: Executive Officer, Board of Supervisors
County Counsel
All Department Heads
Legislative Strategist